

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF LOS ANGELES

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## CHAPTER FOUR

### PROBATE DIVISION RULES

#### GENERAL PROVISIONS

##### 4.1 APPLICABILITY OF RULES

(a) Applicability of Rules. The rules of this Chapter (“Probate Division Rules”) apply to all actions and proceedings to which the Probate Code applies and do not apply to any other action or proceeding.

(b) Rules of Construction. To the extent that the Probate Division Rules may add to existing statutory provisions relating to the same subject matter, they must be construed so as to implement the purposes of those statutes.

(c) Jurisdiction. The Probate Division Rules are not intended to expand or restrict the court’s jurisdiction in proceedings under the Probate Code.

(Rule 4.1 new and effective July 1, 2011)

##### 4.2 EXCUSE FROM COMPLIANCE

The court for good cause may waive the application of the Probate Division Rules in an individual case.

(Rule 4.2 new and effective July 1, 2011)

##### 4.3 PROBATE COURT INFORMATION

(a) Filing. Except for the North District, all probate matters are filed and heard in the Central District at the Stanley Mosk Courthouse.

(b) Addresses and Telephone Numbers and Calendaring Information. The address, telephone number, and calendaring information for the Probate Court is available online at [www.lacourt.org](http://www.lacourt.org).

(Rule 4.3 [7/1/2011, 5/17/2013, 7/1/2014, 1/1/2017] amended and effective July 1, 2023)

##### 4.4 PROBATE NOTES

(a) Probate Notes Available on the Web. “Probate Notes” are available in advance of a hearing in the Probate Division section of the court’s website at [www.lacourt.org](http://www.lacourt.org). The commonly used abbreviations in the Probate Notes are set forth in Appendix 4.A.

(b) Clearing Probate Notes. The “Matters To Clear” section of the Probate Notes informs the parties of additional documents that are necessary to support judicial consideration of the petition. Counsel or litigants must clear the items noted under the “Matters To Clear” section by filing supplemental or other documents by the third court day preceding the hearing date.

(c) Failure to Clear Probate Notes. If the Probate Notes are not timely cleared, the court will continue the hearing, place the matter off calendar, deny the matter without prejudice, or take other action it deems necessary.

(Rule 4.4 [7/1/2011, 5/17/2013, 1/1/2017] amended and effective July 1, 2023)

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4.5 PROBATE CASE AND DOCUMENT COVER SHEET

The first paper filed by the petitioner in an action or proceeding must be accompanied by a Probate Case Cover Sheet and Certificate of Grounds for Assignment to District, form PRO 010.

All Probate Division forms are located at website “[lacourt.org/forms/probate](http://lacourt.org/forms/probate).”

(Rule 4.5 [1/1/2018] amended and effective January 1, 2023)

4.6 CONTENTS OF PETITION

A petition must be complete when filed, setting forth all requests for relief and any request for fees and costs. Petitioner must file concurrently or attach to the petition appropriate supporting documentation including any declaration.

(Rule 4.6 new and effective January 1, 2023)

4.7 ELECTRONIC FILING

(a) Mandatory Electronic Filing. Pursuant to the operative General Order re Mandatory Electronic Filing for Probate Records (“General Order”), represented parties in Probate actions must file documents electronically, unless the court exempts parties from doing so. The electronic filing of documents must be affected using an approved electronic service provider. Electronic service provider information is available on the court’s website at [www.lacourt.org](http://www.lacourt.org).

(b) Exemptions from Mandatory Electronic Filing. Self-represented litigants are exempt from mandatory electronic filing requirements. Although not required, self-represented litigants are encouraged to participate in electronic filing and service. In addition, represented parties may apply for exemption from electronic filing requirements as set forth in the operative General Order.

(c) Exempt Filings. The following filings may not be filed electronically: (1) peremptory challenges, or challenges for cause of a judicial officer; (2) testamentary instruments (wills and codicils), original trust documents, and bond/undertaking documents; (3) trial and hearing exhibits.

(d) Lodgments. Documents attached to a Notice of Lodgment may be lodged and served conventionally in paper form. The actual document entitled "Notice of Lodgment" shall be filed electronically.

(e) Technical Requirements.

(1) Documents must be electronically filed in PDF, text searchable format.

(2) Declarations, proofs of service, and exhibits to documents must be text searchable when technologically feasible without impairment of the document's image and must be bookmarked within the document.

(3) Each document must be electronically filed as a separate PDF document.

(4) Multiple documents relating to one case may be uploaded in one envelope transaction; and

(5) Writs and abstracts must be submitted as a separate electronic envelope.

(Rule 4.7 new and effective January 1, 2023)

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4.8 **RESERVED**

**HEARINGS, *EX PARTE* PROCEDURES, AND TRIALS**

4.9 SETTING OF PROBATE MATTER

A petition requiring a hearing will be assigned a hearing date by the clerk at the time of filing. The petitioning party must ensure that a hearing date has been assigned. A request for an early setting must be accompanied by a declaration of urgency or a court order authorizing the early setting. These requests will be granted only if good cause has been shown; the convenience of counsel or a party does not constitute good cause.

(Rule 4.9 [7/1/2011, 1/1/2017] amended and effective January 1, 2023)

4.10 RESETTING PETITION

A request to reset a petition previously placed off calendar must be filed through an *ex parte* application. Supplemental papers setting forth the current status of the case must be presented at the time of the request.

(Rule 4.10 [7/1/2011] amended and effective January 1, 2017)

4.11 PROBATE LAW AND MOTION

In cases assigned to the Central District, a party filing a motion must contact the department to which the case is assigned to reserve a date and time for the hearing. The moving party must include the date, time and department on the cover page of the motion. In the North District, a party does not need to reserve a motion hearing date; the clerk will assign one when the motion is filed.

(Rule 4.11 [as CENTRAL DISTRICT - PROBATE LAW AND MOTION 7/1/2011, 5/17/2013, 1/1/2017] amended and effective January 1, 2023)

4.12 *EX PARTE* PROCEDURES

(a) *Ex Parte* Rules. A party filing or opposing an *ex parte* application must follow California Rules of Court, rule 3.1200 et seq., except as provided below.

(b) Appearances for *Ex Parte* Applications. *Ex parte* applications are non-appearance matters and are decided on written submissions unless the court, in its discretion, sets a hearing for a later date. The parties should not appear on the date specified in the *ex parte* application.

(c) Timing. A party filing an *ex parte* application must specify a date on which the court's ruling is requested. The applicant must file and serve the *ex parte* application and supporting documents no later than 10:00 a.m. on the court day before the date on which the court's ruling is requested. Any party opposing the application must file and serve a written opposition no later than 8:30 a.m. on the date on which the court's ruling is requested. If the opposition papers are filed later than 4:00 p.m. on the court day before the date on which the court's ruling is requested, the opposing party may submit a courtesy copy to the court by emailing the opposition papers in a PDF format to ProbateExPartes@lacourt.org after filing the opposition. The court may set a hearing on an application for *ex parte* relief where there is an opposition to the request.

(d) Notice. A party seeking an *ex parte* order must notify all parties no later than 10:00 a.m. on the court day before the date on which the court's ruling is requested, absent a showing of exceptional circumstances that justify a shorter time frame.

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(e) Special Notice. The *ex parte* application, petition or motion must include an allegation that special notice has been given, has not been requested, or a written waiver of special notice has been filed as required by California Rules of Court, rule 7.55.

(f) Drop-Off Ex Parte Applications. *Ex parte* applications not seeking an immediate court order will be accepted for review as permitted by statute. Drop-off *ex parte* applications should be marked on the initial page as “drop-off review only.” Subdivisions (c) – (e) do not apply to drop-box applications.

(g) Payment of Filing Fees. A party must pay the filing fee before the court will review the *ex parte* matter.

(h) Temporary Conservatorships and Guardianships. A petition for appointment of a temporary conservator or guardian, absent exigent circumstances, shall be set for hearing within ten days after filing. A petitioner seeking an earlier hearing must file an *ex parte* application and show that exigent circumstances exist that require an earlier hearing.

(i) Application for Nunc Pro Tunc Order. An application for a *nunc pro tunc* order may be presented by a drop-off *ex parte* application and by using form PRO 028.

(Rule 4.12 [7/1/2011, 5/17/2013, 1/1/2014, 1/1/2017, 1/1/2018] amended and effective  
January 1, 2023)

#### 4.13 PROBATE HEARINGS CANNOT BE ADVANCED

When a trust or decedent’s estate matter has been set for hearing, or the hearing has been noticed and then continued to a definite date, the hearing will not be advanced to an earlier date. Additionally, the matter will not be heard on an earlier date by filing a new petition or an amended petition.

(Rule 4.13 new and effective July 1, 2011)

#### 4.14 CONTINUANCE OF NON-TRIAL MATTERS

(a) Request to Continue Petition Hearing Date.

1. Use of local form LASC PRO 080. A party requesting continuance of a hearing on a petition may file form PRO 080 for each hearing sought to be continued. This form may be used only to request a continuance of the petition hearing date.

2. Timing. If the request is made fewer than five court days before the hearing, the requesting party must file an *ex parte* application, or may appear at the scheduled hearing and request a continuance.

3. Required Signatures. If the petition is contested, all respondents, competing petitioners, and persons who have appeared in the case must sign the continuance request. A contested petition is one in which an objection, opposition, will contest, competing petition, or other filing seeking to deny or alter the relief requested in the petition has been filed. If the request does not contain all required signatures, a party seeking a continuance must file an *ex parte* application or appear at the scheduled hearing to request a continuance. Only the party requesting a continuance need sign the request if the petition is uncontested.

4. Service of Order. The party who sought the continuance must serve a copy of the court order ruling on the request on all parties who received notice of the filing of the petition, who have appeared at any hearing on the petition, who have filed documents related to the petition, or who have filed a request for Special Notice.

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(b) Matters Not Ready for Hearing. If there has been no prior continuance, the court will usually continue for at least four weeks a matter that is not ready for hearing. A matter will be considered not ready for hearing when the Probate Notes state that there are unresolved procedural or factual issues, other than issues designated as “JTD” for the court to determine.

If there are unresolved procedural or factual issues appearing in the Probate Notes on the second continued date, the court may place the matter off calendar, deny it without prejudice, or grant an oral motion for continuance.

(c) Continuance Pursuant to Stipulation. Matters will not be continued by stipulation of counsel without recommendation of the Probate Attorney or order of the court.

(d) Notice of Continued Matter. If a petition was properly noticed, new notice of the continued date is not required unless specifically ordered by the court. This rule does not apply to notice by citation.

(Rule 4.14 [7/1/2011] amended and effective January 1, 2023)

#### 4.15 TRIAL ON CONTESTED MATTERS IN CENTRAL DISTRICT

(a) Trial Setting. A contested matter will be set for trial. Counsel are required to provide the court with reasonable and accurate time estimates for trial. If the time estimate of either party is exceeded, the court may, in its discretion, deem the case submitted, declare a mistrial, or continue the matter to a new trial date.

(b) Joint Trial Statement.

(1) Meet and Confer. No later than thirty calendar days before the date set for trial, counsel must meet and confer, in person, in good faith to prepare a Joint Trial Statement. Although the petitioner has the duty to initiate the meet and confer process, the responding party(ies) must initiate it if the petitioner fails to timely do so. Both counsel are subject to imposition of monetary and/or other appropriate sanctions if the meet and confer process is not completed.

(2) Filing Joint Statement. The Joint Trial Statement must be filed and served on all parties no later than ten calendar days before the trial date.

(3) Filing Separate Statement. In the rare case where the parties, after good faith attempts to do so, are unable to agree on a Joint Trial Statement, each party shall file and serve on all other parties a Separate Trial Statement no later than ten calendar days before the trial date.

(4) Extension of Time. Compliance may be extended only by order of the court.

(c) Contents of Joint Trial Statement. The Joint Trial Statement or Separate Trial Statement must contain the following:

(1) Joint Statement Compliance. If the parties have failed to prepare and file a Joint Trial Statement, the Separate Trial Statement must summarize attempted compliance activity, including dates of meetings or discussions and total time spent in attempts to reach compliance;

(2) Expedited Presentation of the Case. The Statement must address in detail the use of summaries or statements, or other expedited means of presenting evidence including stipulated facts, agreements regarding admission of evidence, and agreements re summary of testimony;

(3) Factual Information. The Statement must include a complete and objective factual statement of the case including, as applicable a) the date of decedent’s death and date of any wills or codicils, b) the date of appointment of personal representative/guardian/conservator, c) the names, ages and relationships of all persons relevant to the proceeding and names of counsel, d) the date and substance of any prior orders of the court, e) the filing date and substance of any documents pertinent to any contested issue (e.g., inventories), f) the amount of any bond, and g) other relevant information.

(4) Uncontested Issues. The Statement must list and summarize all uncontested issues.



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(5) Statement of Contested Issues. The Statement must include a concise statement of every contested issue. If the parties cannot agree on what the contested issues are, each issue must be noted with an identification of which party believes the issue to be contested and which party does not.

(6) Discussion of Contested Issues. For each contested issue, the Statement must present a brief but comprehensive discussion which includes the following:

a) Any factors relevant to that issue;  
b) A list of all documents, schedules, or summaries to be offered at trial regarding the issue, a summary of each document's content and purpose, and a copy of each appraisal and expert report to be offered at trial;

c) For each percipient or expert witness that any party intends to call at trial, the witness' name and business address, a brief statement of the substance of the witness' testimony, and a time estimate for direct and cross-examination. This provision does not apply to any witness objectively and in good faith anticipated to be called solely for the purpose of impeachment; and

d) Any points and authorities relevant to a particular contested issue.

(d) Continuance. A trial may be continued for good cause only by order of the court. If all parties waive notice, an application for continuance may be presented *ex parte*. The application must be made at the earliest possible time and in no event less than one week prior to trial. A party's need for additional time to prepare for trial or to discuss settlement does not constitute good cause.

(e) Motions in Limine. Motions *in limine* must comply with the notice provisions of Code of Civil Procedure section 1005 and must be set for hearing no later than the first day of trial.

(Rule 4.15 [7/1/2011, 5/17/2013, 1/1/2014] amended effective January 1, 2017)

- 4.16 **RESERVED**
- 4.17 **RESERVED**
- 4.18 **RESERVED**
- 4.19 **RESERVED**

## CONSOLIDATING AND RELATING CASES

- 4.20 **RESERVED**

(Rule 4.20 [as TRANSFER FROM ONE DISTRICT TO ANOTHER 7/1/2011]  
**REPEALED** and effective May 17, 2013)

- 4.21 CONSOLIDATION OF CASES

When two or more petitions have been filed concerning the same decedent's estate, conservatee, minor or trust, the court may, in its sole discretion and on its own motion, consolidate them into the case assigned the lowest case number.

Where cases have been consolidated, subsequent documents must be filed using the case number designated by the court in the consolidation order.

(Rule 4.21 [as CONSOLIDATION AND/OR TRANSFER OF CASES 7/1/2011]  
title & text amended and effective May 17, 2013)

- 4.22 RELATED CASES

(a) Related Probate Cases. Two or more probate cases are related where they concern the same decedent, conservatee, ward, settlor/trustor or other substantially affected parties. Counsel must inform the court of all such related cases by filing and serving a notice of related cases in each case or by

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orally informing the court on the record. Related probate cases shall be transferred to the department to which the lead case is assigned, except where good cause is shown to the contrary. The first filed case shall be the lead case.

(b) Relating Probate Cases to Non-Probate Cases. The relation of non-probate cases to probate cases is governed by Local Rule 3.3(f).

(Rule 4.22 new and effective July 1, 2011)

4.23 **RESERVED**

4.24 **RESERVED**

4.25 **RESERVED**

4.26 **RESERVED**

**PLEADINGS**

4.27 **RESERVED**

(Rule 4.27 [7/1/2011] **REPEALED** and effective July 1, 2023)

4.28 **RESERVED**

(Rule 4.28 [7/1/2011] **REPEALED** and effective July 1, 2023)

4.29 **ORDERS**

(a) Orders in Contested Proceedings. A proposed order must be separately submitted and not attached to the moving papers.

(b) Preparation and Submission of Order. A Party must prepare the proposed order and submit it to the court after a ruling has been made on the subject petition or matter.

(c) Court-Appointed Counsel Panel Attorney's Approval of Order. If the court has appointed counsel, Court-Appointed Counsel must indicate approval of the proposed order as to form by signing at the end of the proposed order. If the attorney's signature is not obtained, a proof of service of the proposed order on the attorney must be submitted to the court with the proposed order.

(d) Content of Probate Order:

(1) The proposed order must contain the name of the judicial officer presiding at the hearing when the ruling on the subject petition or matter was made, the date of the hearing, the department, and the names of all persons appearing at the hearing. The order must set forth, with the same particularity required of judgments in civil matters, all matters ruled upon by the court. No text may appear after the signature of the judicial officer.

(2) No text, exhibits, or attachments may appear after the signature line for the judicial officer, other than a proof of service for the order if relevant. Where an order has attachments, the place for the judge's signature must appear at the end of the last attachment and an appropriate notation must be made in the body of the order indicating that the signature is located at the end of the last attachment.

(3) There must be at least two lines of substantive text above the judge's signature line on the last page of a proposed order.

(4) Order for Probate of Lost Will. The Judicial Council form "Order for Probate" must be used for an order probating a lost will and the order must include an attachment setting forth the terms of the lost will and/or codicil.

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(5) Order Involving Real Property. An order affecting real property must include: a legal description of the real property, the street address (if applicable), and the Assessor’s Parcel Number (“APN”).

(6) Order Settling Account. An order settling an account must state the beginning and ending dates of the account period and contain general language approving the account report. The order must contain a statement of the balance of property on hand as reflected in the Summary of Account and the amount of cash included in the balance.

(7) Order Providing for Periodic Payments. An order providing for periodic payments must contain the following language: “commencing \_\_\_\_\_ and continuing not to exceed \_\_\_\_\_ months.”

(e) Nunc Pro Tunc Order:

(1) Nunc Pro Tunc Order. When a signed order contains a clerical error, a party may obtain a corrected order by filing an application and presenting a proposed *nunc pro tunc* order correcting the error. The application for a *nunc pro tunc* order must include a supporting declaration and a proposed order. An application for a *nunc pro tunc* order should not be submitted to obtain a new ruling on the underlying matter or to change facts or descriptions presented to the court when the underlying ruling was made.

(2) Format of Order. The *nunc pro tunc* order must state substantially the following: “Upon the consideration of the application of \_\_\_\_\_, to correct a clerical error, the (identify the order to be corrected, giving the title and date thereof) is corrected, by striking the following (set forth the portion to be corrected) and by inserting in lieu thereof the following (set forth the corrected language)”.

To prevent confusion, the proposed order must strike the entire erroneous clause or sentence and then restate it as corrected.

(Rule 4.29 [7/1/2011, 1/1/2017, 7/1/2019] amended and effective July 1, 2023)

4.30 ISSUANCE OF LETTERS TO PERSONAL REPRESENTATIVES OF DECEDENTS’ ESTATES

(a) Issuance of Letters. Where the court orders issuance of letters (testamentary/administration) to the personal representative of a decedent’s estate, the executed letters, the order of appointment, bond (if ordered), the Duties and Liabilities of the Personal Representative form, and the Confidential Supplement To Duties and Liabilities of Personal Representative form must be submitted to the clerk for issuance of the letters.

(b) Multiple Representatives. When the court appoints multiple representatives, the court will issue Letters jointly to all of the personal representatives appointed.

(c) Confidential Supplement to Duties and Liabilities of Personal Representative. The Confidential Supplement To Duties and Liabilities of Personal Representative form must be submitted by each personal representative and must contain the personal representative’s date of birth and driver’s license number. This confidential form must not be placed in the public court file.

(Rule 4.30 new and effective July 1, 2011)

- 4.31 **RESERVED**
- 4.32 **RESERVED**
- 4.33 **RESERVED**
- 4.34 **RESERVED**

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**PROVISIONS COMMON TO VARIOUS CASE TYPES  
AND MISCELLANEOUS PROCEEDINGS**

4.35 MOTION TO WITHDRAW AS ATTORNEY OF RECORD FOR A FIDUCIARY

When an attorney files a motion to withdraw as attorney of record for a fiduciary, service must be made by citation. The citation must be served in the manner provided in Code of Civil Procedure sections 415.10 or 415.30. If the fiduciary resides outside of California, service may also be made in the manner provided in Code of Civil Procedure section 415.40.

(Rule 4.35 new and effective July 1, 2011)

4.36 **RESERVED**

(Rule 4.36 [7/1/2011] **REPEALED** and effective July 1, 2023)

4.37 PETITION TO DETERMINE TITLE TO REAL OR PERSONAL PROPERTY

(a) Caption and Setting. The caption of the petition must reference Probate Code section 850. Because of the 30-day notice requirement in Probate Code section 851, petitions will not be set for hearing sooner than six weeks from the date of filing. If counsel anticipates that there may be difficulties in completing the required service, a later date should be requested to avoid continuances.

(b) Notice of Hearing. The notice of hearing must contain the following:

(1) A description of the subject property sufficient to provide adequate notice to any party who might be interested in the property. For real property, the notice must state the street address or, if none, a description of the property's location.

(2) A statement advising any person interested in the property that the interested person may file an answer to the petition.

(Rule 4.37 [7/1/2011] amended and effective July 1, 2022)

4.38 APPRAISAL OF PERSONAL PROPERTY BEFORE SALE

When a party requests an order approving the sale of personal property, that party must file an appraisal of the property.

An Inventory and Appraisal or a letter appraisal from the probate referee will satisfy this requirement.

(Rule 4.38 [7/1/2011] amended and effective July 1, 2022)

4.39 SALE OF REAL PROPERTY SUBSEQUENT TO PUBLICATION

(a) Published Notice for Private Sale of Real Property Estate. If the Report of Sale and Petition for Order Confirming Sale of Real Property is filed prior to the date of sale stated in the notice, or if it indicates that the private sale took place prior to the date stated in the published notice, the sale will not be confirmed or the petition will be denied without prejudice.

(b) Sale of Specifically Devised Real Property. When a Report and Petition for Confirmation of Sale of Real Property is filed and set for hearing, notice of the time and place of hearing must be given to the specific devisee(s) unless the devisee(s)'s consent to the sale is filed.

(c) Increased Bid Form. When there is a successful overbid in open court on a sale of real property, counsel must complete and the successful bidder must sign and file a "Bid In Open Court on Sale of Real Property" form (LASC form PRO 009).

(d) Real Estate Commission. The court will not permit a commission to an agent, broker, or auctioneer in excess of five percent for the sale of improved real property unless justified by

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exceptional circumstances. A commission not to exceed ten percent will be permitted for the sale of raw land.

(Rule 4.39 [7/1/2011] amended and effective July 1, 2023)

4.40 BORROWING AND REFINANCING

(a) Petition. A petition to borrow money or refinance property must include the following information:

- (1) The existing encumbrances on the estate's property, including whether there is a purchase money mortgage;
- (2) The efforts made to obtain the most favorable financing;
- (3) The estate's ability to service the debt;
- (4) All loan costs, including but not limited to, loan discount points and broker's commission/fee; and
- (5) The sufficiency of the existing bond and the need for an additional bond, if any.

(Rule 4.40 new and effective July 1, 2011)

4.41 REDUCTION AND WAIVER OF BOND

(a) Change in Bond or Substitution of Surety. A court order is required to reduce the amount of the bond or to substitute a surety.

(b) Description of Bond in Account. The total amount of the bond posted, a statement on its sufficiency, and whether additional bond or a reduction in bond is needed must be set forth in the petition that accompanies an account.

(c) Request for Bond Waiver in Decedent's Estate Proceeding. In all cases where a bond is not waived in the will, or the proposed personal representative resides out-of-state, and a waiver of bond is being requested, the petitioner must submit a declaration which states: (1) the number of the estate's unsecured creditors and its estimated liability to such creditors; (2) whether the estate is solvent; (3) estimated tax liabilities of the estate, if any; (4) the amount of any known contingent liabilities; and (5) the due diligence performed to ascertain this information.

(d) Appearance Required in Decedent's Estate Proceeding. When a bond for the proposed personal representative is not waived in the will, the court may require an appearance at hearing for a bond waiver request.

(Rule 4.41 new and effective July 1, 2011)

4.42 BANK STATEMENT AND BLOCKED ACCOUNT

(a) Decedent's Estate and Trust. In decedent's estate and trust proceedings, all interim accounts must attach a bank statement as an exhibit showing the balance as of the ending date of the account period.

(b) Reconciliation. If the bank statement balance does not agree with the balance as reported in the account, the fiduciary must provide a written reconciliation.

(c) Confidential Financial Statement. If a bank account statement contains the estate's or trust's tax identification number or other personal information that would not ordinarily be disclosed in the account, inventory and appraisal or other non-confidential pleading filed in the action, the account statement must be filed under a separate case cover sheet and the caption must state "CONFIDENTIAL FINANCIAL STATEMENT" in capital letters so that it can be kept separately from the public record.

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(d) Blocked Account. When the court has ordered estate or trust assets deposited in a blocked account in a financial institution or trust company, the petition for approval of account must state that funds or securities are on deposit in a blocked account and must provide proof from the institution that no funds may be withdrawn without a court order.

(Rule 4.42 [7/1/2011] amended and effective July 1, 2023)

4.43 PAYMENT AND REIMBURSEMENT OF COSTS

(a) Non-Reimbursable Costs. The following items are not allowable as costs for reimbursement to an attorney or personal representative:

- (1) Photocopies;
- (2) Postage;
- (3) Secretarial services;
- (4) Local telephone expense; and
- (5) Local travel and mileage.

(b) Discretionary Reimbursement. The following items are allowable as costs for reimbursement:

- (1) Air courier and local messenger services;
- (2) Long distance telephone expenses;
- (3) Long distance travel;
- (4) Extraordinary postage and copying;
- (5) Parking; and
- (6) Interpreter and translation services.

(Rule 4.43 new and effective July 1, 2011)

4.44 FINDINGS AS TO CHARACTER OF PROPERTY

(a) Community or Quasi-Community Property Character of Assets. A Spousal or Domestic Property Petition or a Petition for a Particular Transaction filed per Probate Code section 3100 *et seq.* that seeks a determination of the community or quasi-community property character of property must contain the following information:

- (1) The date and place of marriage;
- (2) A description and approximate values of real and personal property owned by the decedent or person lacking legal capacity on the date of marriage and a statement concerning the property's disposition, if any;
- (3) The decedent's or person lacking legal capacity's net worth at the time of marriage;
- (4) A description and approximate values and dates of receipt of all property received by the decedent or person lacking legal capacity, by gift, devise, joint tenancy, proceeds of life insurance, and other beneficiary designation after the date of marriage and a statement concerning the property's disposition, if any;
- (5) Dates of the decedent's or person lacking legal capacity's residency in California and information concerning the character of property acquired during periods of non-residency;
- (6) When the petition affects title to real property, a statement concerning the legal title to the real property at the decedent's date of death or at the date of filing the Petition for a Particular Transaction pursuant to Probate Code section 3100 *et seq.*;
- (7) When the petition concerns Individual Retirement Accounts ("IRA"), life insurance policies or other assets that have a beneficiary designation taking effect on death or a "pay on death" designation, the status of that designation as of the decedent's date of death or date of filing

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the Petition for a Particular Transaction pursuant to Probate Code section 3100 *et seq.*, including the names of beneficiaries or payees; and

(8) Facts upon which the claim of community or quasi-community property is based.

(b) Supporting Documents. Copies of documents supporting a claim of community or quasi-community character of subject property must be attached to the petition. Copies of written agreements between the decedent and the surviving spouse, or between the spouses, for purposes of proceeding brought pursuant to Probate Code section 3100 *et seq.*, providing for a non-*pro rata* division of the aggregate value of the community property or quasi-community property, or both, must be attached. Alternatively, the petition must include a statement that such agreements do not exist.

(c) Copies of Deeds. Where the petition affects title to real property, a copy of the deed(s) showing vesting at the decedent's date of death or at the time of filing of the Petition for a Particular Transaction pursuant to Probate Code section 3100 *et seq.* must be attached to the petition.

(d) Will as Basis for Passing Decedent's Property. Where the surviving spouse's or domestic partner's entitlement to the decedent's interest in property is based upon the decedent's will, and the will has not been offered for or admitted to probate, the petitioner must allege that the will has been filed with the court for safekeeping.

(e) Petitioner Is Not the Spouse or Domestic Partner. Where the petitioner is the personal representative or the conservator of the spouse or domestic partner, a copy of letters evidencing the appointment must be attached to the petition.

(f) Spousal or Domestic Property Petitions, Findings Regarding Character of Property. For spousal or domestic property petitions:

(1) Unless alleged and proved, the court will make no findings as to whether the property is community or quasi-community.

(2) Unless alleged and proved, the court will make no finding as to whether the property is separate property.

(Rule 4.44 new and effective July 1, 2011)

#### 4.45 AFFIDAVITS FOR REAL PROPERTY OF SMALL VALUE

When an Affidavit for Real Property of Small Value is filed pursuant to Probate Code section 13200, one of the following must be attached to the affidavit:

(a) Decedent Died Testate. If the decedent died testate, a statement that the decedent died testate and an executed copy of the will; or

(b) Decedent Died Intestate. If the decedent died intestate, a statement identifying the relationship of the heir(s) which establishes the affiant's claim to entitlement.

(Rule 4.45 new and effective July 1, 2011)

#### 4.46 ACCOUNTING OR OTHER REPORT RE PURCHASE OR SALE OF ESTATE PROPERTY

In any accounting or other report to the court that includes information regarding purchase or sale of estate real property during the reporting period, the reporting party must include with the filing, or earlier if the court so orders, a final escrow closing statement for each purchase or sale. The statement must be filed even if an accounting has been waived. If the court has ordered that the sales proceeds be deposited into a blocked account, the reporting party must file with the report a proof of deposit in blocked account.

(Rule 4.46 new and effective January 1, 2023)

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- 4.47 **RESERVED**
- 4.48 **RESERVED**
- 4.49 **RESERVED**

**DECEDENT’S ESTATE PROCEEDINGS**

4.50 APPOINTMENT OF SPECIAL ADMINISTRATOR

(a) Notice. Unless good cause is shown, petitions for special letters of administration will not be granted without notice to the surviving spouse, domestic partner, the person nominated as executor, and any other person whom the court in its discretion determines is entitled to notice.

(b) Preference. In making the appointment of a special administrator, the court will give preference to the person(s) entitled to letters testamentary or of administration. If a contest is pending, the court may appoint a disinterested person or the Public Administrator as special administrator.

(c) Bond. The special administrator, including a named executor, will be required to post a bond unless the court finds that the petition contains sufficient allegations to justify waiver.

(Rule 4.50 new and effective July 1, 2011)

4.51 DECLINATION AND CONSENT TO ACT

(a) Declination of Named Executor. If a named executor declines to act, that person’s signed declination to act must be filed with the court.

(b) Consent to Act. If a petition requests appointment of a person other than or in addition to the petitioner, that person’s signed consent to act must be filed with the court.

(Rule 4.51 new and effective July 1, 2011)

4.52 APPOINTMENT OF PUBLIC ADMINISTRATOR

(a) Appointment. Persons interested in having the Public Administrator appointed as personal representative should contact the Office of the Public Administrator and County Counsel’s Office.

(b) Notice. In cases where it appears that the Public Administrator has priority, notice to the Public Administrator and County Counsel must be given.

(Rule 4.52 new and effective July 1, 2011)

4.53 CERTIFICATION OF WILLS AND CODICILS BY SELF-REPRESENTED PARTY

A self-represented party must attach a copy of the will or codicil with a clerk’s filing stamp when filing the Proof of Subscribing Witness or Proof of Holographic Instrument form. A self-represented party may not certify the photographic copy of the will or codicil by completing the Attorney Certification on the Judicial Council form.

(Rule 4.53 new and effective July 1, 2011)

4.54 FOREIGN LANGUAGE WILL

If the will or codicil is in a foreign language, a translation of the document authenticated by a declaration from a Judicial Council certified or registered translator, must be attached as an exhibit to the petition.

(Rule 4.54 new and effective July 1, 2011)



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4.55 PROBATE OF WILL OR CODICIL; SAFEKEEPING

(a) Original Will or Codicil. If a party electronically files a petition for probate of a will or codicil, the filing party must deliver any original will or codicil that is the subject of the petition to the Probate Clerk's office for safekeeping within one court day of filing. If the petition is not electronically filed (see Rule 4.130), the filing party must deliver any original will or codicil to the Probate Clerk's office at the same time the petition is filed. The will or codicil will be assigned a safekeeping case number.

(b) Safekeeping Case Number. The face page of a petition for probate must include the safekeeping case number of the will or codicil that is the subject of the petition if a number has already been assigned.

(c) Amended or Subsequent Petition. Wills or codicil not previously included in a petition for probate of a will must be presented for probate in an amended or subsequent petition and new notice must be published and served. Subdivisions (a) and (b) of this rule apply to any amended or subsequent petition.

(Rule 4.55 [7/1/2011] amended and effective January 1, 2023)

4.56 **RESERVED**

(Rule 4.56 [7/1/2011] **REPEALED** and effective July 1, 2023)

4.57 CREDITOR'S CLAIMS

(a) Creditor's Claim by Personal Representative or Representative's Attorney

(1) Personal Services. A creditor's claim by a personal representative or by the representative's attorney for fees for services personally rendered to the decedent must attach detailed invoices or other itemization of such services.

(2) Reimbursement for Debts. A creditor's claim by a personal representative or by the representative's attorney for reimbursement of debts or funeral expenses of the decedent must attach detailed invoices or other evidence of payment.

(b) Funeral and Interment Claims. Interest on creditor's claims for funeral interment will be awarded commencing 60 days after the date of death.

(Rule 4.57 [7/1/2011] amended and effective July 1, 2022)

4.58 NOTICE OF PROPOSED ACTION

(a) Notice of Proposed Action. A Notice of Proposed Action must contain a description of the proposed action in reasonably specific terms. If the proposed action involves a sale or exchange of real property or option to purchase real property, the notice must include the material terms of the transaction including the sales price and commission(s) payable to the broker(s).

(b) Notice Filed. The Notice of Proposed Action, together with the proof of service, must be filed with the court.

(c) Petition for Distribution. A petition for distribution must contain a description of the actions taken by the personal representative under the Independent Administration of Estates Act. The personal representative must allege whether a Notice of Proposed Action was given, notice was waived, or consent was given by all affected parties.

(Rule 4.58 new and effective July 1, 2011)

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4.59 PETITION FOR FAMILY ALLOWANCE

(a) Ex Parte Petition. When a petition for family allowance is presented *ex parte*, and the petitioner is not the personal representative, the personal representative's consent to the allowance or waiver of notice must be filed with the petition.

(b) Limitation on Period of Family Allowance. If filed before the Inventory and Appraisal, an order for family allowance will not be made for a period exceeding six months unless good cause is shown.

(c) Reasonableness and Eligibility. The petition for family allowance must state:

(1) The estimated monthly income of the proposed recipient, including any government benefits;

(2) If the surviving spouse is the petitioner, the spouse's income from sources other than the estate and an itemization of the spouse's separate property;

(3) For a petition seeking payments of \$1,000 or more per month, an itemized estimate of monthly expenses; and

(4) When such itemized expenses include payments for real property, a statement showing how title to subject real property is vested.

(Rule 4.59 new and effective July 1, 2011)

4.60 HEIRSHIP DETERMINATION

(a) Notice of Hearing. A notice of hearing and a copy of the petition must be served on the affected parties and their attorneys of record.

(b) Notice to Attorney General. When notice to the Attorney General is required, a notice of hearing and a copy of the petition must be sent to the Attorney General, Charitable Trusts Section 1300 I Street, Sacramento, CA 95814.

(c) Contents of Petition. The petition must identify (by name, address, and relationship to the decedent) the persons entitled to distribution of the decedent's estate. If the personal representative is the petitioner, the petition may propose alternative entitlements.

(d) Genealogical Chart. The petition must include a genealogical chart establishing the relationships between the decedent and the decedent's heirs.

(e) Escheat. When the petition for probate states that heirs are unknown, a potential for *escheat* exists and the petitioner must give notice to the California Attorney General.

(Rule 4.60 [7/1/2011] amended and effective July 1, 2024)

4.61 PETITION FOR INSTRUCTIONS

(a) Limitations. The use of a petition for instructions by personal representatives is limited to those matters for which no other procedure is provided by statute.

(b) Specifying Instruction. The petition must state the instruction requested and must not be stated in the alternative.

(Rule 4.61 new and effective July 1, 2011)

4.62 DAMAGES FOR WRONGFUL DEATH/PHYSICAL INJURY OR PROPERTY DAMAGE

(a) Wrongful Death Damages. Damages for wrongful death are held by the personal representative for the benefit of the statutory beneficiaries and are not part of the estate.

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(b) Physical Injury or Property Damages. Damages for physical injury to the decedent or property damage are part of the estate. The cause of action or the settlement proceeds must be inventoried.

(c) Court Approval. Compromise or settlement of wrongful death or injury claims of the decedent must be approved by the court, unless the personal representative compromises or settles the claim or action under the authority of the Independent Administration of Estates Act.

(Rule 4.62 new and effective July 1, 2011)

#### 4.63 PETITION FOR PRELIMINARY AND FINAL DISTRIBUTION

(a) Schedule of Creditors' Claims. A petition for preliminary and final distribution must state, for each claim presented:

- (1) Claimant's name;
- (2) Date of filing of the claim;
- (3) Nature of the claim;
- (4) Amount of the claim;
- (5) Disposition of the claim; and
- (6) If the claim was rejected, the date of service of the rejection and whether or not a lawsuit was filed.

(b) Medi-Cal Recipient. Petitions for distribution must state whether or not the decedent received Medi-Cal benefits or was the surviving spouse of a person who received Medi-Cal benefits. If such benefits were received, notice must be given to the Director of Health Services and the claim period must have expired before distribution will be made.

(c) Heir Confined in a Correctional Facility. A petition for distribution must state whether or not the personal representative or estate attorney knows or has reason to believe that an heir is confined in a prison or facility under the jurisdiction of the Department of Corrections and Rehabilitation or confined in any county or city jail, road camp, industrial farm, or other correctional facility. If distribution will be made to such a person, the petition for distribution must state that notice was given as provided in the Probate Code, and whether or not the California Victim Compensation and Government Claims Board has demanded collection of any outstanding restitution fines or orders.

(Rule 4.63 new and effective July 1, 2011)

#### 4.64 PAYMENT OF COSTS OF ADMINISTRATION

A petition for final distribution or to terminate the proceeding must state that all charges for legal advertising, bond premiums, probate referee's services and costs of administration have been paid.

(Rule 4.64 new and effective July 1, 2011)

#### 4.65 ALLEGATIONS REGARDING CREDITORS

Petitions for approval of account, waivers of account, or requesting distribution must state the efforts to locate known or reasonably ascertainable creditors and whether actual notice was given or required.

If actual notice to creditors was given the completed form of Notice of Administration To Creditors and a proof of service must be filed with the court. If there are no known or reasonably ascertainable creditors, the petition must so state.

(Rule 4.65 new and effective July 1, 2011)

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4.66 MEDI-CAL NOTIFICATION

Petitions containing a request for distribution must allege notice to the Director of Health Services where required. Notice is not required, when neither the decedent nor the decedent's predeceased spouse, received Medi-Cal benefits, or when no claim will be made by the Department of Health Services because (1) the decedent died before June 28, 1981, (2) the decedent was under age 65 at date of death, (3) the decedent was survived by a spouse, minor child, or disabled child, or (4) the decedent's predeceased spouse died before June 30, 1993.

(Rule 4.66 new and effective July 1, 2011)

4.67 ALLEGATION RE CHARACTER OF PROPERTY

In addition to those allegations required by California Rules of Court, Title 7, a petition for distribution must contain the allegations set forth in Local Rule 4.44(a) through (c) to establish the community or quasi-community character of assets. The allegations are not required if the surviving spouse is the sole heir or devisee. This rule also will apply when a portion of the estate is attributable to the decedent's predeceased spouse under Probate Code section 6402.5.

(Rule 4.67 new and effective July 1, 2011)

4.68 PROVISION RE SURVIVORSHIP

When a spouse's or domestic partner's right to take under a will is conditioned on survival for a specified period of time, a Spousal Or Domestic Partner Property Petition may be filed prior to the expiration of the survivorship period, but no order passing the property to the surviving spouse or domestic partner will be made prior to the expiration of the survivorship period.

(Rule 4.68 new and effective July 1, 2011)

4.69 DESCRIPTION OF DISTRIBUTEES

(a) Names and Addresses. The names and addresses of all persons who are present and future distributees of the estate and whether they are adults or minors must be stated in all petitions for distribution. If distribution will not be made directly to a beneficiary, the name, address and fiduciary capacity of the recipient must be stated.

(b) Age of Minors and Others. In all cases where property will be distributed to a minor, the minor's age and birth date must be stated in the petition and the accompanying order.

If a trust beneficiary will receive distribution as an adult upon reaching a specific age, the petition and order must state the age and birth date of the beneficiary.

(Rule 4.69 new and effective July 1, 2011)

4.70 ORDER ESTABLISHING TESTAMENTARY TRUSTS

(a) Appointment of Testamentary Trustee Prior to Distribution. Upon filing of a petition, the court may appoint a testamentary trustee before the decree of distribution is made.

(b) Order Establishing Testamentary Trust. A proposed order establishing a testamentary trust must set forth the terms of the trust in their entirety using the present tense and in the third person and not quote from the will.

(c) After an order establishes a testamentary trust, any party initiating a proceeding relating to the trust must file a separate case with a new case number. All future matters relating to the trust must be filed in that separate case.

(Rule 4.70 [7/1/2011] amended and effective January 1, 2023)

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4.71 DISTRIBUTION OF DEVISE TO MINOR OR FIDUCIARY

(a) Distribution to Minors. When a minor is to receive a distribution from a decedent's estate, the petition must state the minor's date of birth and the age for delivery of property to the minor if the distribution is to be delayed beyond the age of majority. The following also must be filed:

(1) Where a guardian of the estate is required, a certified copy of Letters of Guardianship and a declaration concerning the adequacy of the guardian's bond;

(2) Where the distribution does not exceed \$5,000 and the property is to be delivered to the minor's parent, the written assurance of such parent that the value of minor's estate does not exceed \$5,000; and

(3) Where the transfer is to be made to a custodian under the California Uniform Transfers To Minors Act, the written consent of the custodian.

(b) Distribution to Court Appointed Personal Representative of a Decedent's Estate, Conservator of the Estate or Guardian of the Estate. If a beneficiary's distribution will be made to a personal representative of a decedent's estate, conservator of an estate or guardian of an estate, a certified copy of letters must be attached to the petition.

(Rule 4.71 new and effective July 1, 2011)

4.72 POST-DECEASED DISTRIBUTEES DISTRIBUTION

Where distribution will be made to the successors-in-interest of a post-deceased distributee pursuant to Probate Code section 13100 *et seq.*, an affidavit or declaration pursuant to Probate Code section 13101 must be filed, which includes the following:

(a) Post-Deceased Distributee Died Testate. If a post-deceased distributee died testate, a statement that the decedent died testate, and attaching an executed copy of the will;

(b) Post-Deceased Distributee Died Intestate. If the post-deceased distributee died intestate, a statement identifying the relationship of the heir(s) which establishes the affiant's or declarant's claim to distribution.

(Rule 4.72 new and effective July 1, 2011)

4.73 ASSIGNMENT OR TRANSFER OF INTEREST IN ESTATE

(a) Notification to Court. If the personal representative knows of an assignment or transfer of an interest in the estate by an heir or devisee, a petition for distribution affecting that heir or devisee's interest in the estate must include an allegation concerning the specifics of the assignment or transfer.

(b) Written Assignment or Transfer of Interest. The written assignment or document of transfer, signed by the heir or devisee, must be filed with the court.

(c) Distribution "Care of" Attorney. The court will not order distribution of an heir's or devisee's interest in the estate to the "care of" the attorney of the heir or devisee unless the written consent of the heir or devisee is filed.

(Rule 4.73 [ 7/1/2011 ] amended and effective July 1, 2022)

4.74 RECEIPT OF DISTRIBUTION

(a) Distributee Receipt. A receipt of distribution shall be signed by the distributee personally. A receipt signed by an attorney-in-fact must attach an executed copy of the power of attorney and a certification under penalty of perjury by the attorney-in-fact that the power of attorney is in full force and effect and authorizes said action.

(b) Recorded Deed or Order in Lieu of Distributee's Receipt. For real property, recordation of the order for distribution or the deed suffices as a receipt for distribution of the property.

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(Rule 4.74 new and effective July 1, 2011)

- 4.75 **RESERVED**
- 4.76 **RESERVED**
- 4.77 **RESERVED**
- 4.78 **RESERVED**
- 4.79 **RESERVED**

**GUARDIANSHIP PROCEEDINGS**

4.80 APPOINTMENT OF GUARDIAN

(a) Single Petition for Multiple Minors. A single petition for appointment of a guardian must be used for multiple minors if the minors are siblings and the same guardian(s) will be appointed for all of them.

(b) Notification Filed with Petition. A Notification to Court of Address on Conservatorships/Guardianship (LASC form PRO 003) must be submitted with the petition for appointment of guardian (or successor guardian), and at the time letters of guardianship are presented for issuance.

(c) Appointment of Non-Relative Guardian. When the petition requests the appointment of a non-relative as guardian of the person, a notice of hearing with a copy of the petition must be mailed at least 15 days prior to the hearing date to:

Department of Children and Family Services  
201 Centre Plaza Drive  
Monterey Park, CA 91754

California Department of Social Services  
744 P Street  
Sacramento, CA 95814-6413

(Rule 4.80 new and effective July 1, 2011)

4.81 GUARDIANSHIP ACCOUNT OR WAIVER OF ACCOUNT

(a) Separate Accounting for Each Minor. When a guardian is appointed for more than one minor, the guardian must file a separate accounting for each minor.

(b) Waiver of Accounting When a Ward Reaches Majority. When a former ward who has reached the age of majority waives the guardian's final accounting, the court should not, but retains the discretion to, approve the waiver, unless the former ward is present at the hearing.

(Rule 4.81 new and effective July 1, 2011)

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- 4.82 **RESERVED**
- 4.83 **RESERVED**
- 4.84 **RESERVED**
- 4.85 **RESERVED**

**CONSERVATORSHIP PROCEEDINGS**

4.86 APPOINTMENT OF CONSERVATORS

(a) Form Filed with Petition. A Notification to Court of Address on Conservatorships/Guardianship and its Addendum (LASC form PRO 003) must be submitted with the petition for appointment of conservator (or successor conservator), and at the time letters of conservatorship are presented for issuance.

(b) Appointment of Private Professional Conservator. When appointment of a private professional conservator is sought, the petition must include the fiduciary's California Fiduciary Bureau's license number and a statement verifying the fiduciary's active status.

(Rule 4.86 [7/1/2011] amended and effective July 1, 2022)

4.87 LANTERMAN-PETRIS-SHORT ("LPS") CONSERVATORSHIP

(a) LPS Conservatorship Proceeding. If the conservatee or proposed conservatee is currently under an LPS conservatorship, the petition must state the county where the LPS proceeding is pending, the case number, and the name and address of the LPS conservator.

(b) Notice to LPS Conservator. Notice must be given to the LPS conservator in the same manner as required for relatives within the second degree.

(Rule 4.87 new and effective July 1, 2011)

4.88 NOTICE OF ESTABLISHMENT OF CONSERVATORSHIP

The conservator of the estate must record a certified copy of letters of conservatorship with the county recorder in each county where the estate's real property is located, unless (a) the conservator in a limited conservatorship does not have the power to contract, or (b) the rights of the conservatee have been broadened pursuant to Probate Code section 1873 to include the power to enter into real property transactions without prior order.

(Rule 4.88 new and effective July 1, 2011)

4.89 CONSERVATORSHIP CARE PLAN

(a) Care Plan Form. A "Conservatorship Care Plan" form (LASC form PRO 023) must be used when a conservator files a personal care plan required by Probate Code section 2352.

(b) Notice to Court Investigator. When a Conservatorship Care Plan is filed a copy must be mailed to the Court Investigator's Office, 111 N. Hill Street, Room 250, Los Angeles, CA 90012.

(Rule 4.89 new and effective July 1, 2011)

4.90 COURT INVESTIGATOR'S ASSESSMENT

The conservator's account and/or report must state whether all court investigator's assessments have been paid. No final discharge will be granted until proof of payment is filed or payment of the assessments have been waived.

(Rule 4.90 new and effective July 1, 2011)

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4.91 RESIGNATION OF CONSERVATOR

(a) Effective Date of Resignation. A conservator may resign at any time. The resignation will not be effective until a successor conservator is appointed and the resignation is approved by the court.

(b) Final Account of Resigning Conservator. A final account of a resigning conservator will not be approved unless the successor conservator was served with a notice of hearing and copy of the proposed final account and/or petition for its approval.

(Rule 4.91 new and effective July 1, 2011)

4.92 NOTICE RE FINAL ACCOUNT UPON DEATH OF CONSERVATEE

Upon the death of the conservatee, a notice of hearing and a copy of the petition for settlement of a final account must be given to the personal representative, if any, of the deceased conservatee, and if none, to all known heirs at law, devisees, and other successors-in-interest.

(Rule 4.92 new and effective July 1, 2011)

4.93 **RESERVED**

4.94 **RESERVED**

4.95 **RESERVED**

4.96 **RESERVED**

4.97 **RESERVED**

**RULES COMMON TO CONSERVATORSHIP PROCEEDINGS,  
GUARDIANSHIPS PROCEEDINGS, AND/OR TRUSTS CREATED OR FUNDED  
BY COURT ORDER**

4.98 CONSERVATOR'S OR GUARDIAN'S INDEPENDENT POWERS

A request for independent powers under Probate Code section 2591 must justify the necessity for each power requested.

Where the power to sell real property is granted, the sale must be presented to the court for confirmation.

(Rule 4.98 new and effective July 1, 2011)

4.99 INVENTORY AND APPRAISAL OF BENEFITS

If the ward or conservatee receives pension, veterans, social security, welfare, or other periodic benefits, such benefits must be included in the inventory.

(Rule 4.99 new and effective July 1, 2011)

4.100 ACCOUNTS, REPORTS AND CONSERVATOR/GUARDIAN COMPENSATION

(a) Reconciliation of Financial Statements. Where a closing balance reported in the "Property on Hand" schedule (at end of the accounting period) and/or an Inventory and Appraisal (for first accountings) does not agree with the balance reported in its corresponding financial statement, the account must include a schedule with a detailed reconciliation.

(b) Sufficiency of Bond. The petition for approval of an account must state the amount of the current bond, if any, and whether an additional bond or reduction of bond is necessary.

(c) Blocked Account. The petition for approval of an account must identify any funds on deposit in a blocked account. Proof of deposit and the blocked account status must be filed.



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(d) Insured Account. No account balance may be larger than the amount insured.

(e) Vesting of Account. Financial institution accounts must be vested in the name of the fiduciary (e.g., Joe Smith as conservator of the estate of Margaret Smith).

(f) Court Investigator's Assessment. A petition for approval of an account must state the amount of court investigator's assessments that have been paid and any amount due and owing. A receipt for payment must be filed, unless the conservator has obtained an order deferring or waiving payment of the assessment.

(g) Coordination of Hearings. Where a conservatee/ward is the settlor or a beneficiary of a trust that is subject to the court's continuing jurisdiction and the conservator/guardian is the trustee or co-trustee of the trust, the trustee's accounting must be set for hearing on the same day as the conservatorship/guardianship accounting.

(Rule 4.100 new and effective July 1, 2011)

**4.101 ACCOUNTS AND INVENTORIES AND APPRAISALS - CONSERVATORS AND TRUSTEES OF TRUSTS SUBJECT TO THE COURT'S CONTINUING JURISDICTION**

(a) Copies for the Court Investigator's Office. Conservators of the estate must mail, or cause to be mailed, copies of all accountings and Inventories and Appraisals to the Court Investigator's Office, 111 N. Hill Street, Room 250, Los Angeles, CA 90012. When a conservatee is a beneficiary of a trust subject to the court's continuing jurisdiction or supervision, the trustee must mail, or cause to be mailed, copies of the trust's accounting to the Court Investigator's Office.

(b) Lodging Original Financial Statements. All original financial account statements submitted by private professional fiduciaries in support of their account as required by Probate Code section 2620 must be lodged separately from the accounting with LASC form PRO 021. To facilitate return of the original documents, the fiduciary must submit a self-addressed, postage pre-paid, envelope, or else written instructions or authorization for pick-up by the fiduciary or the fiduciary's designee.

(Rule 4.101 [7/1/2011] amended and effective July 1, 2022)

4.102 **RESERVED**

4.103 **RESERVED**

4.104 **RESERVED**

4.105 **RESERVED**

**TRUST PROCEEDINGS**

**4.106 MULTIPLE PROBATE CODE SECTION 17200 ET SEQ. PETITIONS CONCERNING ONE TRUST**

All petitions filed under Probate Code section 17200 *et seq.* which relate to the same trust must be filed under the same case number.

Each petition filed under Probate Code section 17200 *et seq.*, whether or not filed in the same case file, must contain facts necessary to support the probate jurisdiction of the court and requires a new initial filing fee for each petition.

(Rule 4.106 new and effective July 1, 2011)

**4.107 PETITION TO CONFIRM SALE OF TRUST REAL PROPERTY**

When a trustee seeks court approval of a sale of trust real property, the sale must comply with the provisions of Probate Code section 10300 *et seq.* The trustee is required to publish a notice of

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intention to sell real property unless the trust gives the trustee the power to sell real property; the trust directs the property to be sold, or the value of the property does not exceed \$5,000 (Prob. Code, § 10301).

(Rule 4.107 new and effective July 1, 2011)

4.108 SETTLEMENT INVOLVING CHARITABLE TRUSTS

The Attorney General must be a party to a petition to modify or terminate a trust for charitable purposes.

(Rule 4.108 new and effective July 1, 2011)

4.109 TESTAMENTARY TRUSTEE ACCOUNT

The starting balance of the first account of a testamentary trustee must conform to the trustee's receipt(s) on file in the decedent's estate proceeding.

(Rule 4.109 new and effective July 1, 2011)

4.110 **RESERVED**

4.111 **RESERVED**

4.112 **RESERVED**

4.113 **RESERVED**

4.114 **RESERVED**

**MINOR'S COMPROMISE, COMPROMISE BY PERSON WITH DISABILITY,  
AND TRUST FUNDED OR ESTABLISHED PURSUANT TO COURT ORDER**

4.115 SETTLEMENTS OF CLAIMS OF MINORS OR PERSONS WITH DISABILITIES  
(INCLUDING ESTABLISHMENT AND FUNDING OF TRUSTS)

Where there is a judgment or settlement of claim(s), including a covenant not to sue, for a minor or person with a disability, as defined by Probate Code section 3603, the following procedures apply. (*See also* Code Civ. Proc., § 372; Prob. Code, §§ 2500-2507, 3500, 3600 - 3612; Standards of Judicial Administration, Section 7.10; and Cal. Rules of Court, rule 3.1384, and rules 7.950-7.955)

(a) Proper Court to Approve Settlement.

(1) No Civil Action Pending. If no civil action is pending, the proper court to approve the settlement is the probate court, as provided in Probate Code sections 2505(b) and 3500.

(2) Pending Civil Action. If a settlement for a minor or a person with a disability is reached in a pending civil action, the proper court to approve the settlement is the court in which the action is pending (Prob. Code, § 2505(a)).

(b) Special Needs Trusts and Other Trusts. When the settlement proposes the establishment of a special needs trust, minor's trust, or other trust as provided in Probate Code sections 3600 to 3612, the Probate Division must review the terms of the proposed trust. The terms of the trust must include the provisions required in California Rules of Court, rule 7.903, and Local Rule 4.116. To facilitate timely review, a party seeking to establish and fund a trust as part of a petition for approval of a compromise filed in a civil department pursuant to subsection (a)(2) of this rule must, within two court days of the filing of the petition to approve the compromise and trust, lodge with the filing window of the Probate Division at Stanley Mosk Courthouse a physical copy of the face page of the petition to

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approve the compromise and attach a copy of the proposed trust instrument and the proposed order approving the compromise and trust.

(c) Orders.

(1) Order Approving Compromise. The order must be on Judicial Council form “Order Approving Compromise of Disputed Claim or Pending Action or Disposition of Proceeds of Judgment for Minor or Adult Person with a Disability” (Judicial Council form MC-351).

(2) Order Establishing Trust. When the order establishes a trust, the order must set forth the provisions of the trust in their entirety.

(d) Post-Judgment Procedure.

(1) Commencement of Trust Proceeding. An order approving a settlement where proceeds will be deposited into a trust must provide that the trustee(s) commence a separate trust proceeding with a probate case number in the Probate Division of the court unless the court finds good cause otherwise. The trustee(s) must file, within 60 days of approval of the compromise and trust, a “Notice of Commencement of Proceedings for a Court Supervised Trust” (form LASC PRO 044) and attach a certified copy of the order approving compromise, a copy of the executed trust instrument, and a copy of any required trustee’s bond. The Probate Division will then issue a new probate case number for court supervision of the trust and set an Order to Show Cause hearing to ensure filing of the first trust accounting within one year.

(2) Blocked Account. A certified or file endorsed copy of an “Order to Deposit Money Into Blocked Account” (Judicial Council form MC-355) must be delivered to the financial institution. A “Receipt and Acknowledgment of Order for the Deposit of Money to Blocked Account” (Judicial Council form MC-356) must be signed by the depository and promptly filed with the court pursuant to California Rules of Court, rule 7.953. Counsel must ensure that funds are deposited in accordance with the order. Attorney’s fees must not be paid until a receipt reflecting the deposit is filed with the court.

(3) Withdrawal of Funds from Blocked Account. A party seeking to withdraw funds from a blocked account approved by a prior probate court order must file a “Petition for Withdrawal of Funds from Blocked Account” (Judicial Council form MC-357) in the Probate Division. A party may present the petition *ex parte*. A party seeking to withdraw funds from a blocked account approved by a prior order of another division must file the Petition for Withdrawal of Funds from Blocked Account in the department of the division that made the order blocking the funds.

When a party seeking a withdrawal was a minor who has now reached majority and the “Order to Deposit Money Into Blocked Account” is self-executing, *i.e.*, provides for release when the minor attains the age of 18, no petition is necessary and the former minor must contact the financial institution directly for release of funds.

(Rule 4.115 [7/1/2011, 7/1/2014 1/1/2017, 1/1/2020] amended and effective January 1, 2023)

#### 4.116 TRUST CREATED OR FUNDED PURSUANT TO COURT ORDER

(a) Trusts Created or Funded by Court Order. Trusts created or funded by court order, including trusts created pursuant to Probate Code sections 2580 *et seq.* (“substituted judgment”), 3100 *et seq.* (relating to particular transactions for disabled spouses or registered domestic partners), and 3600 *et seq.* (relating to the compromises of claims of minors and persons with disabilities) are governed by California Rules of Court, rule 7.903. All such trusts must include provisions for protection of the trust assets against misuse and continuing supervision by the court. Except as provided in subdivision (c) herein, or unless the court otherwise orders for good cause shown, trusts created or funded by court order must:

- (1) not contain a no-contest provision;

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- (2) prohibit modification or revocation without court approval;
- (3) clearly identify the trustee and any other person(s) with authority to direct the trustee to make disbursements;
- (4) prohibit investments by the trustee other than those permitted under Probate Code section 2574;
- (5) require persons identified in subdivision (3) to post bond in the amount required under Probate Code section 2320 *et seq.*;
- (6) require the trustee to file accounts and reports for court approval in the manner as frequency required by Probate Code sections 1060 *et seq.* and 2320 *et seq.*;
- (7) require court approval of changes in trustees and a court order appointing any successor trustee; and
- (8) require that compensation of the trustee, the members of any advisory committee, and the attorney for the trustee be in reasonable amounts as fixed by court order. The trust may provide for periodic payments of compensation, subject to the requirements of Probate Code section 2643 and California Rules of Court, rule 7.755.

(b) Additional Trust Requirements. The court may also require that the trust include the following provisions:

(1) Where the trustee is a trust company (as defined in Financial Code section 107) and it petitions for fees, the petition must include a complete disclosure of any fees paid to a fiduciary and/or any affiliate as required by Probate Code section 16015 and Financial Code section 1561.1;

(2) Any purchase of a personal residence for a beneficiary may be made only if authorized by the court pursuant to the rules applicable to conservatorships and guardianships. (*See Prob. Code, § 2571.*);

(3) Any sale of a personal residence of the beneficiary may be made only if authorized by the court pursuant to the rules applicable to conservatorships and guardianships. (*Prob. Code, § 2540(b).*) Such sales must be returned to court for confirmation. (*See Prob. Code, § 10300 et seq.*); and

(4) The trustee may not borrow money, lend money, give security, lease, convey, or exchange any property of the estate without prior authorization of the court. (*Prob Code, § 2550.*)

(c) Rule Does Not Apply to Trusts Under \$20,000. Unless the court otherwise orders for good cause shown, this rule does not apply to trust instruments or trusts that have a total asset value of \$20,000 or less.

(Rule 4.116 new and effective July 1, 2011)

4.117 **RESERVED**

(Rule 4.117 [7/1/2011] **REPEALED** and effective July 1, 2023)

4.118 COURT PROCEEDING FOR TRUST ESTABLISHED UNDER PROBATE CODE SECTION 2580 OR 3100

When a trust is created under Probate Code section 2580 *et seq.* in a conservatorship proceeding, or pursuant to Probate Code section 3100 *et seq.*, all future proceedings relating to that trust must be filed as a new separate case.

(Rule 4.118 new and effective July 1, 2011)

4.119 **RESERVED**

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- 4.120 **RESERVED**
- 4.121 **RESERVED**
- 4.122 **RESERVED**

**PROBATE DIVISION COURT-APPOINTED COUNSEL PANEL ATTORNEYS**

4.123 COURT-APPOINTED COUNSEL GENERAL ELIGIBILITY REQUIREMENTS AND PROCEDURE FOR APPOINTMENT TO THE PANEL

All Court-Appointed Counsel must meet the following general requirements:

- (a) Counsel must meet the qualifications of California Rules of Court, rule 7.1101.
- (b) Counsel may not have been the subject of any disciplinary proceedings pending or filed during the preceding 12 months.
- (c) Counsel must complete at least 12 hours of MCLE during counsel's State Bar reporting period in the subjects of decedent estates, conservatorship/guardianships, or trust administration.
- (d) Counsel must complete the Los Angeles County Bar Association Court-Appointed Counsel training every three years.
- (e) Counsel seeking inclusion on the court appointed counsel list must submit the following documents, then resubmit them annually:
  - (1) An Application for Appointment to the Court-Appointed Counsel Panel (LASC PRO 057);
  - (2) A Compliance Statement with the Application (LASC PRO 057);
  - (3) If seeking appointment in Conservatorship and/or Guardianship proceedings, Judicial Council form GC-010, Certification of Attorney Concerning Qualifications for Court Appointment in Conservatorship/Guardianships.

(Rule 4.123 [7/1/2011, 7/1/2019, 1/1/2020, 1/1/2022] amended and effective July 1, 2022)

4.124 COURT-APPOINTED COUNSEL EDUCATION AND EXPERIENCE REQUIREMENTS FOR SPECIFIC AREAS OF INTEREST

Requirements for Specific Areas of Interest. Court-Appointed Counsel must meet the following requirements, including MCLE requirements, to be included on a panel for a specific area of interest:

- (a) General Conservatorships. Counsel appointed to represent conservatees or proposed conservatees in all general Conservatorship proceedings must satisfy the requirements of California Rules of Court, rules 7.1101(c) and 7.1103.
- (b) Limited Conservatorships. Counsel appointed to represent conservatees or proposed conservatees in limited Conservatorship proceedings must satisfy the requirements of California Rules of Court, rules 7.1101(c) and 7.1103. Counsel also must have completed the Los Angeles County Bar Association Limited Conservatorship training within the prior three years.
- (a) LPS Conservatorships. Counsel appointed to represent conservatees or proposed conservatees in LPS Conservatorship proceedings must satisfy the requirements of California Rules of Court, rules 7.1101(c) and 7.1103. Counsel also must have completed the Los Angeles County Bar Association LPS Conservatorship training within the prior three years.
- (b) Guardianships/Minor's Counsel. Counsel appointed to represent minors/wards or proposed minors/wards in Guardianship proceedings must satisfy the requirements of California Rules of Court,

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rules 7.1101(c) and 7.1102. Counsel also must have completed the Los Angeles County Bar Association Minor's Counsel training within the prior three years.

(c) Fiduciary Appointments (Including Decedent Estate and Trusts Administration)/Guardians ad Litem. Counsel appointed to serve as a fiduciary or guardian ad litem must have at least 6 years in practice representing or serving as a fiduciary or guardian ad litem. If the relevant experience is in decedents' estate or trust administration, counsel must have represented parties in at least six different probate or trust administration court proceedings, including three decedents' estate or trust proceedings from inception through final account and/or order for distribution. Counsel also must have completed the Los Angeles County Bar Association Guardian ad Litem training within the prior three years.

(f) Health Care Decisions for Adults Without Conservators and Tuberculosis Detention Proceedings/Capacity Determinations. Counsel appointed to participate in proceedings involving health care decisions for adults without conservators or tuberculosis detention proceedings/capacity determinations must satisfy the requirements of California Rules of Court, rules 7.1101(c) and 7.1103. Counsel also must have experience in matters relating to medical treatment and bio-ethical issues within the past three years and be familiar with Probate Code section 3200 or Health and Safety Code section 121365 proceedings. These cases often involve complex treatment issues and may require immediate attorney response to medical emergencies.

(Rule 4.124 [7/1/2011, 7/1/2019] amended and effective January 1, 2022)

#### 4.125 ETHICAL GUIDELINES AND COMPLAINT PROCESS

(a) Court-Appointed Counsel serve at the pleasure of the court. They are appointed to assist the court in the resolution of the matter to be decided by representing the interests of the client. Court-Appointed Counsel must, if practical, afford the client an opportunity to address the court directly.

(b) Court-Appointed Counsel must represent the client in accordance with applicable laws and with due diligence, including appearing at scheduled proceedings, timely communicating with the client regarding developments in the case, preparing and timely submitting reports that are complete, thorough and clear, and discharging the representation in compliance with ethical requirements and cost effectiveness.

(c) Complaints regarding Court-Appointed Counsel must be in writing, be submitted timely, cite specific facts to support allegations of misconduct or bias, and include the name and mailing address of the complaining party or the party's representative.

(d) Complaints regarding Court-Appointed Counsel must be submitted to the judicial officer assigned to the case. Complaints regarding Court-Appointed Counsel's service or performance on the panel shall be submitted to the Supervising Judge of the Probate and Mental Health division.

(e) Appointment to the Court-Appointed Counsel panel is a privilege. Counsel may be removed with or without cause.

(Rule 4.125 [7/1/2011, 7/1/2019] amended and effective January 1, 2022)

#### 4.126 COURT-APPOINTED COUNSEL APPOINTMENTS

(a) Appointments are Personal. Court-Appointed Counsel Panel attorney appointments are personal and cannot be delegated or assigned to other attorneys. Only the attorney appointed by the court may render legal services to the client and appear at hearings.

(b) Appointment Process. Initial appointments are random; however, for good cause judicial officers have discretion to appoint or reappoint specific counsel. Random selection and attorney availability may result in varying numbers of assignments. Counsel on the panel are not guaranteed a minimum number of appointments or minimum amount of fees.

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(c) Counsel's Response to Appointment. Within 48 hours of the court's notification of a proposed appointment, unless a shorter time is ordered by the appointing judicial officer, counsel shall notify the court whether counsel accepts or rejects the appointment. Once counsel accepts an appointment, the court will issue an order making the appointment. If a response is not received within 48 hours of the court's notification of the proposed appointment, counsel is deemed to have waived appointment, and the court will randomly select a new proposed appointment.

(Rule 4.126 [7/1/2011, 7/1/2019] amended and effective January 1, 2022)

4.127 WRITTEN REPORT AND COMPENSATION FOR COURT-APPOINTED COUNSEL

(a) Written Report. Court-Appointed Counsel must file a written report including verified statements that counsel:

(1) is an active member of the State Bar of California and has no pending disciplinary actions, and that no disciplinary actions have been filed against counsel in the preceding 12 months;

(2) has professional liability insurance coverage in effect with policy limits consistent with the value of the matter being handled; and

(3) has not represented any party to the proceeding except as stated in the report. The statement must include the name of the party represented and a brief explanation of the representation. Court-Appointed Counsel must include cases where counsel has represented a private professional conservator in the proceeding.

(b) Compensation for Court-Appointed Counsel. Court-Appointed Counsel's claims for payment shall be filed with the court on the designated form and include an itemization of all the legal services rendered, the date the services were rendered, and the time devoted to each of the listed services.

(1) A claim for payment in excess of 12 hours for initial appointment, or ten hours for reappointment, must be supported by a written fee declaration and served upon the appearing parties. The declaration must include a listing of services rendered by date, the service rendered, and the time devoted to that service.

(2) Except in cases involving unusual issues requiring extraordinary expertise, or where the value of the estate warrants otherwise, the court will award Court-Appointed Counsel compensation at an established court rate.

(3) If a person who has Court-Appointed Counsel represents an inability to pay, the court may order the fees to be paid by the estate, a party, or the County of Los Angeles where authorized by statute.

(4) Court-Appointed Counsel who do not appear in court as part of counsel's representation must file and set for hearing a petition for compensation.

(Rule 4.127 [7/1/2011, 7/1/2019] amended and effective January 1, 2022)

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- 4.128 **RESERVED**
- 4.129 **RESERVED**
- 4.130 **RESERVED**

**MENTAL HEALTH MATTERS**

4.131 JUDICIAL COMMITMENT

(a) Requirements. A petition for commitment must generally allege the statutory basis for commitment. Every petition must include a sworn affidavit or declaration signed under penalty of perjury and documentary evidence in support of the commitment. Petitioner must give notice to respondent personally and to the Public Defender's Office. A petition for an extended commitment must be timely filed. A petition must have a proof of service attached.

(b) Counsel's Duty to Advise Respondent of Rights. Counsel for respondent must advise respondent of the right to appear at all proceedings, including the hearing on the petition for commitment. Counsel for respondent must also advise respondent of the right to a jury trial or a trial by the court, the right to confront and cross-examine adverse witnesses, to present evidence on respondent's behalf using the free subpoena power of the court, and the privilege against self-incrimination. Counsel must advise respondent that if a commitment is granted, the People may subsequently seek renewed commitments.

(c) Waiver. Counsel must advise respondent of the consequences of waiving these rights. The court may accept a written waiver of each of these rights if the waiver is signed by respondent and notarized or witnessed by counsel. The waiver must specify that respondent understands that the respondent faces the possibility of renewed commitments which could last for the respondent's lifetime.

(Rule 4.131 [5/17/2013] amended and effective July 1, 2022)

4.132 MEDICATION CAPACITY/RIESE HEARINGS (FACILITY-BASED)

(a) Hearing Request Procedure. Medication Capacity Hearings pursuant to Welfare & Institutions Code section 5332 are facility-based hearings which may be requested by filing a "Petition and Declaration of Service Regarding Capacity to Give Informed Consent to Medication." A petition may be filed by facsimile at (323) 223-3538. The petition must indicate the availability of the treating physician and, if an interpreter is necessary for the patient, the language required. The person filing the petition must telephone the court's hearing coordinator at (323) 226-2911 to ensure that the court has received the request for the medication capacity hearing.

(b) Notice. The treating facility representative who filed the petition must personally inform the patient in writing of the time and place of the hearing on the same day that the court receives notice in compliance with Welfare and Institutions Code section 5334(a).

(c) Patients' Rights Advocate Access to Patient's Record. A patient's rights advocate will be provided in accordance with Welfare and Institutions Code section 5333(d). Facilities must allow patient's rights advocates unabridged access to the patient, the patient's record, and any other information needed in preparation for the hearing.

(d) Hearing Coordinator. The court's hearing coordinator will determine the schedule of medication capacity hearings and must notify the facility's patients' rights office and the appropriate hearing office of the next day's schedule of hearings. The hearing coordinator must also notify the advocate of any patient transfers, discharges, or changes of status which would affect the hearing. The



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court's hearing coordinator must notify all involved facility liaison persons of the time of the hearing(s) scheduled for the next court day. The court's hearing coordinator must arrange to provide an interpreter at the hearing if one is indicated.

(e) The Hearing. The facility must ensure that the patient is present at the appointed time of the hearing unless the patient has waived the patient's presence. The hearing will be closed to all but necessary participants except for persons expressly invited by the patient, and permitted to attend in the hearing officer's discretion, and persons permitted to attend by the hearing officer for safety reasons or training purposes.

(1) Presentation of Evidence. The current treating physician must be the person presenting evidence that the patient lacks the capacity to refuse prescribed medication. The physician must be a member of the facility staff designated by the facility director and must have personally discussed the prescribed treatment with the patient.

(2) Standard. The hearing officer will apply the clear and convincing evidence standard to determine the patient's capacity to consent to medication.

(3) Decision. At the conclusion of the hearing, the decision shall be announced orally followed by a written decision given to the patient, advocate and facility director to be placed in the patient's chart by the facility director or the facility director's designee.

(f) Appeal. The facility or the patient may request judicial review following an adverse determination. A patient may request judicial review by notifying a member of the facility staff, the mental health courts, or the patients' rights office. A patient requesting a judicial review will be represented by the Public Defender's Office or privately retained counsel. A private facility requesting judicial review must be represented by a privately retained attorney. A public facility will be represented by a county counsel or district attorney. On a patient's petition, the treating physician may appear with counsel. The mental health court will conduct the review hearing within two court days after a petition is filed. A petition is deemed filed when it is sent by facsimile to the mental health court at (323) 223-3538 and petitioner has also telephoned to the court's hearing coordinator at (323) 226-2911 to verify receipt of the petition.

(g) Holding periods. Each additional holding period necessitates a new medication capacity hearing if the patient continues to refuse medication, unless the hearing was conducted during the initial 72-hour evaluation period, in which case, the finding of the hearing officer continues through the expiration of the 14-day hold. If a refusing patient is placed on Temporary Conservatorship under Welfare and Institutions Code section 5352.1, the treating facility may request a judicial hearing by contacting County Counsel's Office.

(Rule 4.132 [5/17/2013] amended and effective 7/1/2022)

#### 4.133 ELECTROCONVULSIVE THERAPY HEARINGS FOR INVOLUNTARILY HELD PATIENTS

The patient's attending physician through counsel may petition the court for an evidentiary hearing to determine the capacity of a patient who is involuntarily hospitalized to consent to or refuse electroconvulsive therapy ("ECT").

(a) Contents. The petition must contain a declaration by the treating physician in accordance with Welfare and Institutions Code section 5326.7. The declaration must state that two psychologists or neurologists have consulted and have approved the proposed treatment. The declaration must also specify which physician was appointed by the County Mental Health Director and which physician was designated by the treating facility/hospital.

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(b) Notice. At least 48 hours before filing the ECT Petition, petitioner must serve the petition upon the Public Defender or other attorney representing the patient. The petition and accompanying documents may be served by facsimile.

(c) Proof of Service. The proof of service of the petition must be filed with the clerk of the court at the time the petition is filed.

(d) Hearing Date and Time. The clerk's office of the court will set a date and time for hearing and will notify all the parties listed in the proof of service.

(e) Hearing. The patient and adult responsible relative, if the patient has designated one, must be present at the ECT hearing. Petitioner must bring all medical records to court and permit inspection and copying prior to the hearing. The County Counsel's Office will provide representation at an ECT Hearing for a county hospital through the Department of Health Services. If the treating facility is a private hospital, the attending physician must appear with the legal counsel provided by the hospital.

(Rule 4.133 [as Rule 8.52 7/1/2011])

Moved to Probate Chapter and effective May 17, 2013)

#### 4.134 PETITION FOR RESTORATION OF RIGHT TO POSSESS A FIREARM

(a) Petition. A petition for restoration of the right to own, possess, control, receive, or purchase a firearm pursuant to Welfare and Institutions Code section 8103(f)(1), and any supporting documentation must be filed with the clerk's office of the mental health court. The petition must include a discharge summary prepared by the last inpatient facility which provided involuntary treatment. In addition, if a firearm has been confiscated and the petition seeks to regain the firearm, a detailed description of the firearm, the name of the agency which removed the firearm, and a copy of the receipt given by the agency upon removal must be attached to the petition. At the hearing, the court may also require written verification from a treating therapist stating that the petitioner will be able to use the firearm in a safe manner.

(b) The Hearing. The clerk will send a notice of the hearing date to petitioner. The petitioner must attend the hearing as a self-represented litigant or be represented by privately retained counsel. If the court decides in petitioner's favor, petitioner must prepare an order restoring the petitioner's right to possess a firearm for the court's signature. If the petitioner regains the right to buy or possess firearms, the court will send notice to the Department of Justice.

(c) Return of Firearm in Court or Law Enforcement Custody. Penal Code section 12021.3(b) prohibits return of a firearm in court or law enforcement custody to anyone unless the California Department of Justice has determined that the person is legally eligible to possess a firearm. If the firearm is in the custody of the court, the court will not order a firearm returned until the provisions of that section are complied with, and petitioner has obtained a written notification from the California Department of Justice that the petitioner is eligible to possess a firearm. If the firearm is in law enforcement custody, the court will not order it returned and petitioner must present the written notification from the Department of Justice directly to the law enforcement agency.

(Rule 4.134 [5/17/2013] amended and effective July 1, 2022)

#### 4.135 *EX PARTE* REQUESTS

An *ex parte* filing made in the mental health courts under the Welfare and Institutions Code must comply with California Rules of Court, rule 3.1200 *et seq.* Additionally, the moving party must provide notice regarding the *ex parte* request to the institution, if any, in which the person is confined, and opposing counsel, and file a proof of service listing the names of all persons notified.

(Rule 4.135 [as Rule 8.54 7/1/2011])

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Moved to Probate Chapter and effective May 17, 2013)

4.136 BRIEF PRELIMINARY EVALUATIONS OF THE MENTAL COMPETENCY OF A  
CRIMINAL DEFENDANT

(a) Brief Preliminary Evaluation Reports. A brief preliminary evaluation of the mental competency of a criminal defendant may be conducted by a forensic psychiatrist working in the Mental Health Courthouse on a *per diem* (or half-day) basis. The evaluation shall be memorialized in a written report, which shall be submitted to the mental health court in which the defendant's competency case is pending. The report shall specify the defendant's name, the date of the evaluation, and the case number or numbers. The report shall also specify the reasons for the psychiatrist's opinion as to the defendant's competence, including observed symptoms, and the defendant's ability or inability to understand the nature of the criminal proceedings or assist counsel in the conduct of a defense in a rational manner as a result of a mental disorder. If the psychiatrist opines that the defendant is not competent to stand trial, the report shall address the issues regarding antipsychotic medication as specified in Penal Code section 1369(a). The report shall be signed by the psychiatrist.

(b) Application. This local rule is intended to comply with Rule 4.130(a)(3) of the California Rules of Court, so that Brief Preliminary Evaluation Reports prepared in accordance with this rule need not comply with Rule 4.130(d)(2).

(Rule 4.136 new and effective January 1, 2018)

4.137 COURT-APPOINTED COUNSEL FOR LANTERMAN-PETRIS-SHORT ("LPS")  
CONSERVATORSHIPS – ELIGIBILITY REQUIREMENTS

To be eligible for court appointment in an LPS Conservatorship matter under Welfare & Institutions Code section 5365 or 5370.1, an attorney must meet the education and experience requirements for appointment of Probate Court-Appointed Counsel set forth in California Rules of Court, rule 7.1101.

(Rule 4.137 new and effective July 1, 2019)

4.138 **RESERVED**

4.139 **RESERVED**